



**COMMUNITY DEVELOPMENT COMMISSION  
of the County of Los Angeles**

2 Coral Circle • Monterey Park, CA 91755  
323.890.7001 • TTY: 323.838.7449 • [www.lacdc.org](http://www.lacdc.org)



**Gloria Molina  
Yvonne Brathwaite Burke  
Zev Yaroslavsky  
Don Knabe  
Michael D. Antonovich**  
*Commissioners*

**Carlos Jackson**  
*Executive Director*

October 17, 2006

Honorable Board of Supervisors  
County of Los Angeles  
383 Kenneth Hahn Hall of Administration  
500 West Temple Street  
Los Angeles, California 90012

Dear Supervisors:

**REVISIONS TO THE COMMUNITY BUSINESS  
REVITALIZATION PROGRAM (1,2,5)  
(3 Vote)**

**IT IS RECOMMENDED THAT YOUR BOARD:**

1. Find that revisions to the Community Business Revitalization Program (CBRP) to facilitate grants to property owners and businesses to improve commercial building exteriors and correct building and zoning code violations within unincorporated Los Angeles County, are exempt from the California Environmental Quality Act (CEQA), because the activities will not have the potential for causing a significant impact on the environment.
2. Approve revisions to the Community Business Revitalization Program (CBRP) to include a grant formula with a minimum owner contribution, shared funding of construction contract costs up to \$65,000 per building, and owner responsibility for funding construction costs over \$65,000, to be effective on the date of Board approval.
3. Authorize the Executive Director of the Community Development Commission to increase the funding limits for individual grants when there is extraordinary blight on the subject property and/or surrounding properties and community, the building is a community landmark, or there are four or more commercial tenants within the building.

4. Authorize the Executive Director of the Community Development Commission to execute construction contracts for the CBRP in substantially the form of Attachment A, and all related documents, and to use for this purpose Community Development Block Grant (CDBG) funds and Tax Increment funds included in the approved Fiscal Year budgets of the Commission, to be effective following approval as to form by County Counsel and execution by all parties.
5. Authorize the Executive Director of the Community Development Commission to revise the standard construction contract for the CBRP, as necessary to meet Federal, State, and County contracting requirements to be effective following approval as to form by County Counsel.

**PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION:**

The purpose of this action is to encourage greater owner participation by leveraging public dollars with private investment, secure commitments from property owners to improve and maintain their properties, create a fair and equitable partnership to share the construction cost of rehabilitating larger-sized private properties, and, increase the potential number of buildings completed annually since private contributions will increase the amount of funds available for the program.

**FISCAL IMPACT/FINANCING:**

There is no impact on the County general fund. The CBRP is funded with CDBG funds and tax increment funds that are approved each year through the budget process. Individual construction contracts executed under the CBRP will not exceed \$100,000 each.

**FACTS AND PROVISIONS/LEGAL REQUIREMENTS:**

In 1980, your Board approved implementation of the CBRP and related guidelines for administration of the program in areas of the County that are designated each year through the budget process. The purpose of the program is to provide grants to property owners and businesses to improve commercial building exteriors and correct building and zoning code violations in the designated areas. On October 19, 1999 and May 30, 2000, the guidelines were revised to authorize the Executive Director to execute construction contracts not exceeding \$100,000 each.

Currently, the Commission's initial construction contract funding level is \$10,000 per grant, followed by a 50 percent match to the private funding. The Commission's contribution does not exceed \$20,000 per address or \$100,000 per construction contract.

The proposed new grant formula will be applied per building and establishes that the property owner must contribute \$1,000 of the first \$10,000 of construction contract costs and 25 percent of construction contract costs from \$10,000 to \$65,000. The Commission will contribute \$9,000 of the first \$10,000, and 75 percent of the total construction contract costs ranging from \$10,000 to \$65,000. The maximum Commission contribution will not exceed \$50,250 per building for a \$65,000 construction contract. The property owner will fund all costs for construction contracts awarded in excess of \$65,000. In the event that construction costs exceeds \$100,000, the Commission will seek Board approval prior to entering into that contract.

The Executive Director will have the discretion to increase the Commission's contribution for specific projects when there is extraordinary blight on the subject property and/or surrounding properties and community, the building is a community landmark, or the building contains four or more commercial tenants.

The CBRP will continue to provide architectural services amounting to \$3,000 per street address, at no cost to the property owner. Where four or more addresses are located in a single building, architectural services will be reduced to \$2,800 per address. Asbestos testing is also included as an additional service provided at no cost to the property owner.

In addition, the Commission will continue to provide construction management support at no cost to the property owner. Eligible activities include improvements to the exterior of commercial buildings, correction of code violations, asbestos abatement, and compliance with American with Disabilities Act requirements.

The original CBRP was intended to reimburse owners for construction costs and required owners to be responsible for bidding and contracting the work. However, most property owners are unfamiliar with the construction process and have difficulty with the contracting requirements of the County. For the past six years, the Commission has assumed the primary role in assisting business and property owners by coordinating the preparation of designs and construction documents, bidding of construction contracts, and providing project management services during construction to insure successful completion of the work. The Commission will continue to provide these services to participating owners at no additional cost.

The attached standard construction contract is a three-party contract between the Commission, the owner, and the contractor. County Counsel will approve all construction contracts as to form, prior to execution by the Executive Director.

County Counsel has reviewed this letter.

**ENVIRONMENTAL DOCUMENTATION:**

The revisions to the CBRP are exempt from the provisions of the National Environmental Policy Act pursuant to 24 Code of Federal Regulations, Part 58, Section 58.34 (a)(3), because they involve administrative activities that will not have a physical impact or result in any physical changes to the environment. The activities are also not subject to the provisions of CEQA pursuant to State CEQA Guidelines 15060(c)(3) and 15378, because they are not defined as a project under CEQA and do not have the potential for causing a significant effect on the environment.

The scope of the projects to be funded under this program will be limited to those which are normally Categorically Exempt from the California Environmental Quality Act (CEQA) Guidelines and Categorically Excluded under HUD National Environmental Policy Act (NEPA) regulations at 24 CFR Part 58. However, a Property Identification Form will be submitted to the Community Development Commission's Environmental Unit for each property to be improved. Each site will receive an environmental clearance in accordance with CEQA Guidelines and NEPA regulations. Should any site require a Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report, the Board will review the environmental documentation and determine whether or not to adopt findings for such project in separate actions.

**IMPACT ON CURRENT PROJECTS:**

Approval of the revisions to the CBRP will increase property and business owner participation in the program and will provide more effective commercial improvement of the target areas.

Respectfully submitted,

  
for CARLOS JACKSON  
Executive Director

Attachment: 1

**ATTACHMENT A**  
**SAMPLE CONTRACT**

**COMMUNITY BUSINESS REVITALIZATION PROJECT**

**COMMUNITY DEVELOPMENT COMMISSION  
OF THE COUNTY OF LOS ANGELES**

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## SAMPLE CONTRACT

This CONSTRUCTION CONTRACT, hereinafter referred to as "Contract," is made this \_\_\_\_\_ day of \_\_\_\_\_, 2000, by and between the Community Development Commission of the County of Los Angeles, a public body corporate and politic, hereinafter referred to as the "Commission," \_\_\_\_\_, hereinafter referred to as the "Contractor" and \_\_\_\_\_, hereinafter referred to as "Property Owner."

WHEREAS, the Commission has established a Community Business Revitalization Grant (Grant) Program available from the Community Development Block Grant Fund to provide for the implementation of a Community Business Revitalization Program (CBR) for target areas, to improve the exterior of a building and correct code violations.

WHEREAS, This Contract sets forth the terms and conditions for the construction of storefront improvements

WITNESSETH, that the Commission, Property Owner, and the Contractor, for the consideration stated herein, mutually agree as follows:

A. The term "Work", includes performance, as set forth in the Contract Documents by the Contractor, "the Project" in and upon the real property located at \_\_\_\_\_, hereinafter referred to as "Project Location", or "Project Site".

B. The Commission and the Property Owner desire the Contractor to perform the Work under the terms and conditions hereinafter set forth, and Contractor agrees to perform said Work under the terms and conditions set forth below.

### ARTICLE 1 - THE CONSTRUCTION CONTRACT

#### 1.1 Purpose

The purpose of this Agreement is to allow the Commission and the Property Owner to secure the services of a licensed General Contractor and to enter into an Agreement for the CBR with the General Contractor, for Work to improve the exterior of a building and correct code violations at the property located at \_\_\_\_\_, hereinafter called the "Property."

#### 1.2 Construction Documents

The Construction Contract means and includes all of the "Contract Documents". The Contract Documents which form the Construction Contract are incorporated herein by this reference and are made a part of this Construction Contract as if fully set forth herein. The Contract Documents consist of the following component parts:

PART A	Instructions to Bidders
PART B	Specifications
PART C	Bidder's Documents, Representations, Certifications, Bid, and Other Statements of Bidder
DRAWINGS	
ADDENDA	



Property Owner agrees not to enter into any agreements with the Contractor or subcontractor (s) regarding changes to the Work or for additional work without the express written consent of the Commission.

## **ARTICLE 2 - STATEMENT OF WORK**

### **2.1 Labor, Material, Equipment and Services**

The Contractor shall furnish all labor, material, equipment and services, and perform and complete all Work required for the Project identified as a commercial rehabilitation for the Commission and the Property Owner.

### **2.2 Professional Workmanship**

Contractor agrees to perform in a professional workmanlike manner, to the satisfaction of the Commission's Executive Director and his designees, all work as described in the Contract Documents herein before mentioned. All such Work shall be in strict accordance with the specifications and drawings, identified as Part B in the Contract Documents.

### **2.3 Data in Contract Documents**

Data provided in the Specifications, Drawings and Scope of Work is believed to actually depict the conditions to be encountered by the Contractor, but the Commission and the Property Owner do not guarantee such information as being all-inclusive or complete in any respect. Nothing contained herein shall relieve Contractor from making any and all investigations through non-destructive observation of the Project Location, that is reasonably necessary to apprise him/herself of the condition of the Project Location. Contractor hereby accepts the Location of the Project in an "as is" condition and herein warrants that all such investigations have been performed by him/her, and hereby expressly waives any and all rights under this Construction Contract, or in law, to additional compensation and/or time adjustments for alleged unknown subsurface and/or latent conditions that could be reasonably discovered or inferred based upon standard industry construction practices and techniques.

### **2.4 Changes to the Work**

In the event that deletions or additions to the Scope of Work are required, a written change order must be approved by the Commission and Property Owner change takes place consistent with Section 0103, Part 3.05 of Part A of this Contract. If a change requires an additional monetary contribution from the Property Owner such contribution must be submitted to the Commission at time of approval of such change.

## **ARTICLE 3 - TIME OF COMMENCEMENT AND COMPLETION**

### **3.1 Commencement and Completion**

The Work to be performed under this Construction Contract shall be commenced within five (5) days after a Notice to Proceed is received by the Contractor, or on the date specified in the Notice, whichever is later, and shall be completed within thirty (30) calendar days following the date of said Notice to Proceed.

### **3.2 Liquidated Damages**

The Contractor and the Commission agree that, since the determination of actual damages for any delay in completion would be extremely difficult or impracticable to determine in the event of

breach of contract, the Contractor and its sureties shall be liable for, and pay to the Commission the sum of Two Hundred Dollars (\$200.00) as liquidated damages for each calendar day of delay, until the Work is accepted by the Commission and the Property Owner. The Contractor shall not be charged with liquidated damages because of any delay in the completion of the Work due to unforeseeable caused beyond the control and without the fault or negligence of the Contractor.

Liquidated damages assessed during construction will be returned to the Commission and Property Owner.

**3.3 Withholding**

The Commission may withhold, or cause to be withheld, from any monies payable on account of Work performed by the Contractor or subcontractor any accrued liquidated damages.

**ARTICLE 4 - CONTRACT SUM**

**4.1 Contract Sum**

The Commission grants \_\_\_\_\_ to the Property Owner and the Property Owner's contribution is \_\_\_\_\_, the Commission shall pay the Contractor for the performance of the Construction Contract subject to additions and deductions by Change Order(s) as provided in the Contract Documents, in current funds, the sum of \_\_\_\_\_ (\$\_\_\_\_\_). The Commission's portion of the Contract Sum is \$\_\_\_\_\_ and the Property Owner's portion is \$\_\_\_\_\_. The Contractor represents and warrants that he/she shall pay his/her employees, and all individuals performing Work, not less than the prescribed minimum wages in accordance with the current General Prevailing Wage Determination published by the U.S. Department of Labor, as such wage rates are amended from time to time from commencement of the Construction Contract through completion of the Work.

The Property Owner accepts all responsibility for the cost of all Work in excess of the Grant amount. Any cost savings resulting from approved deletions or reductions in construction will remain with the Commission.

**4.2 Taxes**

The Contract Sum set forth herein includes the payment by the Contractor of all sales and use taxes required by any local codes, or any law existing or which may hereafter be adopted by federal, state or governmental authority, taxing the materials, services required or labor furnished, and of any other tax levied by reason of the Work to be performed hereunder.

**4.3 Escalation**

The Contract Sum is not subject to escalation, the Contractor having satisfied itself with said Contract Price, which includes all labor and material increases anticipated throughout the duration of this Construction Contract.

**4.4 Fiscal Obligation and Non-Appropriation Notice**

The Commission's obligation is payable only from Community Development Block Grant, Tax Increment and other funds appropriated specifically for the purpose of this Contract. All funds are appropriated every fiscal year beginning July 1. In the event this Contract extends into the succeeding fiscal year and funds have not been appropriated, this Contract will automatically terminate as of June 30 of the current fiscal year. The Commission will notify the Contractor in writing within ten days of receipt of the non-appropriation notice.

## **ARTICLE 5 - PROGRESS PAYMENTS**

### **5.1 Progress Payments**

Based upon applications for payment submitted by the Contractor to the Commission, and after approval by the Commission's Construction Management Division, the Commission shall make progress payments on account of the Contract Sum to the Contractor, as provided in the Commission's Part A, Section 01003, General Conditions.

The Commission will maintain a holding account for the Grant amount plus any Property Owner contribution to cover the construction Contract price. Payments to the Contractor will be drawn down from this account.

### **5.2 Payment Timeframe**

Approved applications for progress payments will be paid in accordance with the Commission's standard policy of net thirty (30) days. Applications for payment must be submitted to the Commission with all supporting documentation for review and approval. Payment shall be subject to all provisions of Section 01003 - General Conditions of the Contract for Construction, Part 3 - Administrative Requirements, item 3.03 Payments, of Part A.

### **5.3 Labor Compliance Forms**

The Contractor and each Subcontractor shall submit all required Labor Compliance forms to the Commission before the start of construction. The Contractor shall submit to the Commission all of its payrolls for each pay period within seven (7) days after the pay period has ended. The Contractor shall also collect, review and submit to the Commission all of its subcontractors' payrolls for each pay period within seven (7) days after the pay period has ended. Contractor's failure to submit its payrolls or any subcontractor payrolls within seven (7) days after the pay period has ended, is a violation of this Contract and entitles the Commission to withhold up to ten percent (10%) from any pending progress payment until all such payrolls are received. Repeated, ongoing or flagrant failures by the Contractor to submit the required forms, its payrolls or the payrolls of its subcontractors in a timely manner and in accordance with this provision constitutes a material breach of this Contract which may result in the Commission terminating the Contract for default.

## **ARTICLE 6 - PROJECT CLOSEOUT**

### **6.1 Ownership upon Project Completion**

All materials shall become the property of the Property Owner upon completion of the Work and final inspection and approval by the Property Owner and Commission.

### **6.2 Warranty**

Following completion of the Work and final inspection by Property Owner and the Commission, the Work will remain under warranty from the Contractor to the Property Owner for a period of one (1) year, after which time the Work will be the sole responsibility of the Property Owner. Property Owner recognizes that if a defect is detected within any applicable warranty period, such defect shall be communicated to the Contractor and to the Commission as soon as practicable. Property Owner agrees that only the Contractor shall be responsible to correct defective Work and the Commission is not liable for any claims. All manufacturer's warranties and guarantees will be provided to the Property Owner, and if any materials have a warranty extending beyond

one year, then Property Owner shall be entitled to such warranty as is applicable. (ER grant agreement, under indemnification)

**6.3 Notice of Completion**

A Notice of Completion shall be issued only when the Work, including all phases thereof, is finally completed, and all requirements of this Construction Contract have been satisfied. The Commission shall initiate the notice and ensure said notice is recorded with the County Recorder.

**6.4 Issuance of Notice of Completion**

Upon Issuance of a Notice of Completion, final payment shall be made to the Contractor of the entire unpaid balance of the Contract Sum, including any sums due to the Contractor for changes in the Work approved by the Property Owner pursuant to Section 01003 paragraph 3.03.E. of the Instruction to Bidders, less any amounts which Property Owner is entitled to receive from the Contractor under the terms of this Contract or amounts necessary to cover stop notices or alleged labor under payments, and less the ten percent (10%) retention withheld, pursuant to Section 01003 paragraph 3.03.F. of the Instruction to Bidders.

**6.5 Final Payment**

Upon issuance of a Notice of Completion, final payment shall be made to the Contractor of the entire unpaid balance of the Contract Sum, including any sums due to the Contractor for changes in the Work approved by the Commission pursuant to Section 01003, Subsection 3.03.E. of the General Conditions of the Contract for Construction (Part A), less any amounts that the Commission is entitled to receive from the Contractor under the terms of this Contract, less the ten (10) percent retention and any disputed labor amounts, pursuant to Section 01003, Subsection 3.03.F. of the General Conditions of the Contract for Construction (Part A).

**6.6 Certificate of Completion, Guaranties and Warranties, Waiver and Lien Releases and Inspector Verification**

In addition to all other requirements, a Notice of Completion shall be issued only when the Commission has received the following:

- (a) A Certificate of Completion, executed by the Commission;
- (b) All guarantees and warranties issued by the manufacturers or installers of equipment or other component parts of the project. The Contractor guarantees that any equipment, materials, and workmanship not otherwise covered by the guarantor or warrantee, will be free from defects in materials and workmanship for a period of one year following the date of final acceptance of the Project.
- (c) The waiver and release of all liens, claims of liens, or stop notice rights of the Contractor and all subcontractors, and the Contractor's Warranty Certificate and lien Release.
- (d) Verification from the Commission Construction Management Inspector that Contractor has acceptably completed the work and removed all waste materials, rubbish, tools, construction equipment, machinery, and surplus materials from the Project Site. If the Contractor has failed to remove any of such items, the Commission may remove such items, and the Contractor shall pay the Commission for all cost incurred in connection with such removal.
- (e) The building permit card with the final approval from the Building and Safety Department
- (f) Thirty days after recordation of the Notice of Completion, the Commission shall settle all claims and disputes, notify the Contractor of final acceptance of the Project, and release

the retention of the entire unpaid balance of the Contract Sum, less any amounts which the Commission is entitled to receive from the Contractor under the terms of this Construction Contract, including liquidated damages.

- 6.6 **Settlement of all Claims, Disputes, Final Acceptance Notification and Retention Release**  
Thirty days after recordation of the Notice of Completion and expiration of the thirty (30) day for filing Stop Notices, the Commission shall use reasonable efforts to settle all claims and disputes, notify the Contractor of final acceptance of the Project, and make final payment of the entire unpaid balance of the Contract Sum, including the ten percent (10%) retention, less any amounts which the Property Owner is entitled to receive from the Contractor under the terms of this Construction Contract, including liquidated damages, and less amounts necessary to cover stop notices or alleged labor underpayments.

## **ARTICLE 7 - BREACH AND TERMINATION**

- 7.1 **Waiver of Breach:**  
Waiver by the Commission or Property Owner of any breach of this Construction Contract shall not constitute a waiver of any other breach or of any future breach. No payment made hereunder shall be construed to be an acceptance of defective work or improper materials.
- 7.2 **Termination**  
In addition to any right of termination reserved to the Commission by Part A, Section 01003, subsection 3.10.A. of the General Conditions of the Contract for Construction, the Commission may terminate this Construction Contract or performance under this Construction Contract, if the Contractor is adjudged bankrupt, a receiver is appointed because of the Contractor's insolvency, or the Contractor makes a general assignment for the benefit of its creditors, fails to make prompt payment to subcontractor(s), or for material or labor, persistently disregards laws, ordinances, rules, regulations or orders of any public authority having jurisdiction, fails to construct the Project in accordance with the Scope of Work, or otherwise substantially violates any provision of the Contract documents.
- 7.3 **Termination for Default of Property Owner or Contractor**  
The Commission may terminate this Agreement immediately in whole or in part by providing to the Property Owner and Contractor a written Notice of Default if 1) the Property Owner or Contractor fail to perform their duties within the time specified in Section 3.1 or any time extensions approved by the Commission. 2) The Property Owner or Contractor fail to perform any other covenant or condition of this Agreement, or 3) the Property Owner or Contractor fail to make progress so as to endanger its performance under this Agreement.
- In its sole discretion, the Commission may include in the Notice of Default a period of time for the Property Owner or Contractor to cure the Default(s). Should the Property Owner be in default, the Property Owner will receive a pro rata return of its contribution.
- 7.4 **Termination for Convenience**  
Termination for Convenience: The Commission reserves the right to cancel this Contract for any reason at all upon thirty (5) days prior written notice to Contractor. In the event of such termination, Contractor shall be entitled to a prorated portion paid for all satisfactory work unless such termination is made for cause, in which event, compensation if any, shall be adjusted in such termination. The Property Owner will receive a pro rata share of unused funds.

#### **7.5 Termination for Cause:**

This Construction Contract may be terminated by the Commission upon written notice to the Contractor and Property Owner for just cause (failure to perform satisfactorily any of the Contract terms, conditions, and work items) with no penalties incurred by the Commission or Property Owner upon termination or upon the occurrence of any of the following events specified in the following subsections (a), (b) or (c).

- a. Should the Contractor fail to perform all or any portion of the Work required to be performed hereunder in a timely and professional workmanlike manner or properly carry out the provisions of this Contract in its true intent and meaning, then in such case, notice thereof in writing will be served upon the Contractor, and should the Contractor neglect or refuse to provide a means for satisfactory compliance with this Contract and with the direction of the Commission within the time specified in such notice, the Commission shall have the power to suspend or terminate the operations of the Contractor in whole or in part.
- b. Failure on the part of the Contractor to procure or maintain insurance required by this Contract shall constitute a material breach of the Contract upon which the Commission may immediately terminate this Contract.
- c. Should the Contractor fail within five (5) days to perform in a satisfactory and timely manner, in accordance with the provisions of this Construction Contract, or if the Work to be done under said Contract is abandoned for more than (3) three days by the Contractor, then notice of deficiency thereof in writing will be served upon Contractor by the Contracting Officer of the Economic/Redevelopment Division. Should the Contractor fail to comply with the terms of said Construction Contract within five (5) days, upon receipt of said written notice of deficiency, the Executive Director of Commission shall have the power to suspend or terminate the operations of the Contractor in whole or in part.
- d. In the event that a petition of bankruptcy shall be filed by or against the Contractor.
- e. If, through any cause, the Contractor shall fail to fulfill, in a timely and proper manner, the obligations under this Contract, or if the Contractor shall violate any of the covenants, agreements, or stipulations of this Contract, the Commission shall thereupon have the right to terminate this Contract by giving written notice to the Contractor of such termination and specifying the effective date thereof, at least five (5) days before the effective date of such termination. In such event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs and reports prepared by the Contractor under this Contract shall, at the option of the Commission become its property and the Contractor shall be entitled to receive just and equitable compensation for any work satisfactorily completed.

#### **7.5 Written Notice Prior to Termination**

The Commission shall give the Property Owner, the Contractor and the Contractor's surety written notice prior to terminating this Construction Contract or performance under this Construction Contract, pursuant to Section 01003 subsection 3.10.A. of the Instructions to Bidders, provided that the Contractor shall, upon receipt of such notice, immediately stop the installation of improvements, or other permanent construction work encompassing part of the Project. Upon termination, the Commission may take possession of the Project and all materials, equipment, tools, and construction equipment and machinery owned by the Contractor and located at the Project Site, and may finish the Project by whatever method it may deem expedient. In such case, the Contractor shall not be entitled to receive any further payment under this Construction Contract.

#### **7.6 Waiving of Commission's Other Rights and Remedies**

The Commission shall not be deemed to have waived any of its other rights or remedies against the Contractor by exercising its right of termination under this Article.

**7.7 Termination for Improper Consideration**

The Commission may, by written notice to the Property Owner and Contractor, immediately terminate the right of the Contractor, to proceed under this Construction Contract if it is found that consideration, in any form, was offered or given by the Property Owner or Contractor, either directly or through an intermediary, to any Commission officer, employee or agent with the intent of securing the Contract or securing favorable treatment with respect to the award, amendment or extension of the Contract or the making of any determinations with respect to the Contractor's performance pursuant to the Contract. In the event of such termination, the Commission shall be entitled to pursue the same remedies against the Property Owner and the Contractor as it could pursue in the event of default by the Property Owner or Contractor.

The Property Owner or Contractor shall immediately report any attempt by a Commission officer or employee to solicit such improper consideration. The report shall be made to the Executive Director of the Commission or the County Auditor-Controller's Employee Fraud Hotline 800/544-6861.

Among other items, such improper consideration may take the form of cash, discounts, and service, the provision of travel or entertainment, or tangible gifts.

**7.8 Commission's Quality Assurance Plan**

The Commission will evaluate Contractor's performance under this Contract on not less than a weekly basis. Such evaluation will include assessing Contractor's compliance with all Contract terms and performance standards. Performance standards, unless otherwise specified herein, shall mean the prevailing industry standard at the time the service is performed.

In the event that the Commission identifies deficiencies within the Contractor's performance, it shall provide written notice advising Contractor of the deficiencies, requesting that Contractor take specific corrective measures, and notifying Contractor of the deadline for completing said corrective measures. If the Contractor fails to correct the deficiencies by the established deadline(s), the Commission may terminate the Contract for cause or convenience as provided hereunder and/or seek other remedies which may be available at law or in equity.

Contractor deficiencies which the Commission determines are severe or continuing and that may place performance of the Contract in jeopardy if not corrected will be reported to the Board of Commissioners. The report will include improvement/corrective action measures taken by the Commission and the Contractor. If improvement does not occur consistent with the corrective action measures, the Commission may terminate this Contract or impose other penalties as specified in this Contract.

**7.9 Non-payment after expiration or termination:**

Contractor shall have no claim against the Commission or Property Owner for payment of any money or reimbursement of any kind for any service provided by Contractor after the expiration or other termination of this Agreement. Should Contractor receive any such payment, it shall immediately notify the Commission and shall immediately repay all such funds to the Commission. Payment by the Commission for services rendered after expiration or termination of this Agreement shall not constitute a waiver of the Commission's right to recover such payment from Contractor. This provision shall survive the expiration or other termination of this Agreement.

## ARTICLE 8 - MISCELLANEOUS PROVISIONS

### **8.1 Compliance with Government Requirements**

The Property Owner and Contractor shall give all notices and comply with all laws, rules, regulations, ordinances and orders of any governmental entity relating to the Work. Should Contractor become aware that any provision of the Construction Contract is at variance with any such rule, law, regulation, ordinance or order, they shall promptly give notice in writing to the Commission of such variance.

### **8.2 Severance**

It is hereby declared to be the intention of the parties that the sections, paragraphs, sentences, clauses and phases of this Construction Contract are severable, and if any phrase, clause, sentence, paragraph or section of this Construction Contract shall be declared unconstitutional, invalid or unenforceable by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality, invalidity or un-enforceability shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Construction Contract.

### **8.3 Information in Drawings and Specifications**

Anything mentioned in the Specifications and not shown on the Drawings, or shown on the Drawings and not mentioned in the Specifications, shall be of like effect as if shown or mentioned in both. In case of difference between Drawings and Specifications, the Specifications shall govern. In case of discrepancy within the Drawings, or within the Specifications, the matter shall be promptly submitted to the Contracting Officer, who shall promptly make a determination in writing. Any adjustment by the Contractor without such a determination by the Contracting Officer shall be at its own risk and expense. The Contracting Officer shall furnish from time to time such detailed drawings and other information as considered necessary, unless otherwise provided.

### **8.4 Site Access**

The Property Owner agrees to allow the Commission's staff, its consultants, project managers, agents, or other designees to enter the Property for the purposes of conducting surveys to determine appropriate revitalization methods for the Property, and to conduct pre- and post-construction condition surveys. The Property Owner further agrees to allow contractors who are considering submitting bids to enter the Property in order to review the Work and to prepare a construction bid. The Commission will make every attempt to keep the Property Owner informed about the overall project schedule so that disruption in Property Owner's routines will be kept to a minimum. The Commission agrees to contact the Property Owner in advance to set up appointments necessary to complete the Work. Upon request, the Property Owner agrees to make reasonable efforts to be present when the consultants, project managers or contractors visit the Property. Property Owner will be notified by the Commission in advance of the date of commencement of Work at the Property.

During the construction period, the Property Owner and Tenant agree to be responsible for safeguarding all valuables and merchandise. Property Owner further agrees to provide access throughout the period of construction and for reasonable periods thereafter to inspect the condition of the Work.

### **8.5 Maintenance of Property**

Upon completion of the Project, the Property Owner shall maintain the Property in good repair, working order and condition for a period of no less than five (5) years. Property Owner shall make all necessary and proper repairs, renewals and replacements in a timely and good workman like manner. The Property Owner shall not commit or permit any waste or deterioration of the



Property. The Property Owner shall keep and maintain abutting grounds, sidewalks, roads, parking and landscape areas in good and neat order and repair. The Property Owner shall not commit, suffer or permit any act to be done in or upon the Property in violation of any law, ordinance or regulation.

All materials shall become the property of the Property Owner upon completion of the Work and final inspection by the Property Owner and Commission. General maintenance of doors, windows and all other items, and their replacement beyond expiration of manufacturer's warranty shall be the responsibility of the Property Owner. Property Owner shall not remove or destroy any of the materials and equipment installed as part of the Work. Unauthorized modifications of the Work, or removal or destruction of material or other acts to reduce the effectiveness of the Work by the Property Owner during the useful life of the Work may result in a degradation of the subject Property and will constitute a default under the terms and conditions of this Agreement.

## **ARTICLE 9 - CONTRACTOR APPROVAL**

### **9.1 Contractor's Warranty of Adherence to County's Child Support Compliance Program**

The Property Owner and Contractor acknowledges that the County of Los Angeles, hereinafter referred to as "County", has established a goal of ensuring that all individuals who benefit financially from County or Commission through contract are in compliance with their court-ordered child, family and spousal support obligations in order to mitigate the economic burden otherwise imposed upon County and its taxpayers.

As required by Contractor's Child Support Compliance Program (County Code Chapter 2.200) and without limiting Contractor's duty under this Contract to comply with all applicable provisions of law, Contractor warrants that it is now in compliance and shall during the term of this Construction Contract maintain compliance with employment and wage reporting requirements as required by the Federal Social Security Act (42 USC Section 653a) and California Unemployment Insurance Code Section 1088.5, and shall implement all lawfully served Wage and Earnings Withholding Orders or District Attorney Notices of Wage and Earnings Assignment for Child or Spousal Support, pursuant to Code of Civil Procedure Section 706.031 and Family Code Section 5246(b).

### **9.2 Termination For Breach of Warranty to Maintain Compliance with County's Child Support Compliance Program**

Failure of Contractor to maintain compliance with the requirements set forth in Paragraph 9.1, "Contractor's Warranty of Adherence to County's Child Support Compliance Program" shall constitute a default by Contractor under this Contract. Without limiting the rights and remedies available to County or Commission under any other provision of this Contract, failure to cure such default within ninety (30) days of notice by the Los Angeles County District Attorney shall be grounds upon which the Board of Commissioners may terminate this Contract pursuant to Article 7, "Breach and Termination".

### **9.3 Post L. A.'s Most Wanted Parents List**

The Property Owner and the Contractor acknowledges that County places a high priority on the enforcement of child support laws and the apprehension of child support evaders. Contractor understands that it is County's policy to encourage all County and Commission contractors to voluntarily post County's "L.A.'s Most Wanted: Delinquent Parents" poster in a prominent position at Contractor's place of business. Child Support Services Department (CSSD) will supply Contractor with the poster to be used.

## ARTICLE 10 - ADDITIONAL PROVISIONS

### **10.1 Laws of California**

This Construction Contract and the obligations of the parties hereunder shall be interpreted, construed and enforced in accordance with the laws of the State of California.

### **10.2 Employees of Contractor**

**Worker's Compensation:** Contractor understands and agrees that all persons furnishing services to the Commission pursuant to this Agreement are, for the purposes of workers' compensation liability, employees solely of Contractor. Contractor shall bear sole responsibility and liability for providing workers' compensation benefits to any person for injury arising from an accident connected with services provided to the Commission under this Construction Contract. The Contractor shall ensure that each and every subcontractor of the Contractor has a similar Worker's Compensation policy as that described herein above.

**Professional Conduct:** The Commission does not and will not condone any act, gestures, comments or conduct from the Contractor's employees, agents or subcontractors which may be construed as sexual harassment or any other type of activity or behavior that might be construed as harassment. The Commission will properly investigate all charges of harassment by tenants, employees or agents of the Commission against any and all Contractor's employees, agents or subcontractors providing services hereunder. The Contractor assumes all liability for the actions of the Contractor's employees, agents or subcontractors and is responsible for taking appropriate action after the Contractor receives reports of harassment.

### **10.3 Insurance**

Contractor shall procure and maintain insurance at Contractor's expense for the duration of this Contract the following insurance against claims for injuries to persons or damage to property that may arise from or in connection with the performance of the work by the Contractor, its agents, representatives, employees or subcontractors.

Acceptable insurance coverage shall be placed with carriers admitted to write insurance in California or that has a rating of or equivalent to A:VIII by A. M. Best & Company. Any deviation from this rule shall require specific approval by the Commission:

A. GENERAL LIABILITY INSURANCE (written on ISO policy form CG 00 01 or its equivalent) with limits of not less than the following:

General Aggregate	\$2,000,000
Products/ Completed Operations Aggregate	\$1,000,000
Each Occurrence	\$1,000,000

This insurance shall include, or separate insurance shall be secured, with a minimum limit of one million dollars (\$1,000,000) to cover the defense of and liability for bodily injury, disease or illness including death, or property damage arising in whole or in part out of the removal, repair, handling, or disposal of asbestos and/or lead containing materials.

B. WORKERS' COMPENSATION and EMPLOYER'S LIABILITY insurance providing workers' compensation benefits, as required by the Labor Code of the State of California. In all cases, the above insurance shall include Employer's Liability coverage with limits of not less than the following:

Each Accident	\$1,000,000
Disease-Policy Limit	\$1,000,000
Disease-Each Employee	\$1,000,000

Workers' Compensation: Contractor understands and agrees that all persons furnishing services to the Commission pursuant to this Contract are, for the purposes of workers' compensation liability, employees solely of Contractor. Contractor shall bear sole responsibility and liability for providing workers' compensation benefits to any person for injury arising from an accident connected with services provided to the Commission under this Contract.

- C. AUTOMOBILE LIABILITY INSURANCE (written on ISO policy form CA 00 01 or its equivalent) with a limit of liability of not less than one million dollars (\$1,000,000) for each incident. Such insurance shall include coverage of all "owned", "hired", and "non-owned" vehicles, or coverage for "any auto."

Additionally Insured: The Housing Authority and the Community Development Commission of the County of Los Angeles (Commission), the County of Los Angeles (County), and their duly elected or appointed officers, employees, agents and representatives shall be covered as insured with respect to: liability arising out of activities performed by or on behalf of the Contractor; products and completed operations of the Contractor; premises owned, leased or used by the Contractor.

Cancellation Endorsement: Each insurance policy shall be endorsed to state that coverage shall not be suspended, voided, or canceled by either party or reduced in coverage or limits, except after thirty (30) days prior written notice to the Commission, and shall be primary and not contributing to any other insurance or self-insurance maintained by the Commission.

Self-Insured: The Commission must separately approve any self-insurance program of self-insured retention in writing.

Subcontractors: Contractor shall ensure that all coverage for subcontractors meet the same requirements stated herein. Coverage shall be maintained at no expense to the Commission.

Certificates: Contractor shall deliver to the Commission certificates of insurance and original endorsements for approval as to sufficiency and form prior to the start of performance hereunder. A person authorized by that insurer to bind coverage on its behalf shall sign the certificates and endorsements for each insurance policy. Such insurance as required herein shall not be deemed to limit Contractor's liability under this Contract.

Failure of Contractor to procure or maintain required insurance herein shall constitute a material breach of Contract upon which Commission may immediately terminate this Agreement.

The Commission reserves the right to require complete certified copies of all said policies at any time. Any modification or waiver of the insurance requirements herein shall only be made with the written approval of the Commission's Risk Manager or designee.

Maintain Insurance: Failure on the part of the Contractor to procure or maintain insurance required by this Contract, or to ensure that its subcontractors procure and maintain insurance policies providing the same coverage and having the same additional insureds as those required to

be included in the Contractor's policy, shall constitute a material breach of contract upon which the Commission may immediately terminate this Contract.

**10.4 The Property Owner and Contractor Shall Comply with the Following Provisions:**

**Compliance With Laws**

The Contractor and Property Owner agree to be bound by applicable Federal, state, and local laws, regulations and directives as they pertain to the performance of this Contract. If the compensation under this Contract is in excess of \$100,000 then Contractor shall comply with applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 18579(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency Regulations (40 CFR part 15). The Property Owner shall comply with all the provisions of this Contract throughout the term of this Contract.

This Contract is subject to and incorporates the terms of the Housing and Community Development Act of 1974, as amended by the Cranston-Gonzalez National Affordable Housing Act, 1990, and Title 24 of the Code of Federal Regulations (CFR) Part 85, the American with Disabilities Act. (CS); and the Copeland "Anti-Kickback" Act Requirements, 18 U.S.C. 874, as supplemented in Department of Labor regulations 29 CFR part 3. The Contractor is also subject to the Americans with Disabilities Act of 1990.

If the compensation under this Contract is in excess of \$100,000 then Contractor shall comply with applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 18579h), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency Regulations (40 CFR part 15). (CS)

The Contractor must acquire and present to the Commission all relevant state and local insurance, as well as proof of training and licensing pursuant to services required within this Contract.

Contractor shall comply with the following laws:

**Notice to Employees Regarding the Federal Earned Income Credit**

Contractor shall notify its employees, and shall require each subcontractor to notify its employees, that they may be eligible for the Federal Earned Income Credit under the federal income tax laws. Such notice shall be provided in accordance with the requirements set forth in Internal Revenue Service Notice 1015.

**Civil Rights Act of 1964, Title VI (Non-discrimination in Federally Assisted Programs)**

Title VI provides that no person shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

**Section 109 of the Housing and Community Development Act of 1974**

No person in the United States shall on the ground of race, color, or national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title.

**Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973**

No person in the United States shall be excluded from participating in, be denied the benefits of, or be subjected to discrimination under this Contract on the basis of age or with respect to an otherwise qualified handicapped individual.

**Executive Order 11246 and 11375, Equal Opportunity in Employment (Nondiscrimination in Employment by Government Contractors, Subcontractors, and Contractors)**

During the performance of this Contract, the Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated fairly during employment, without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination/rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, accessible to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided to the agency contracting officer, advising the labor union or workers' representatives of the Contractor's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment. The Contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulation and relevant orders of the Secretary of Labor.

The Contractor will furnish all information and reports required by the Executive Order No. 11246 of September 24, 1965, and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

In the event of the Contractor's noncompliance with the nondiscrimination clauses of the contract or with any of such rules, regulations or orders, this Contract may be canceled, terminated or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in the Executive Order and such other sanctions may be imposed and remedies invoked as provided in the Executive Order or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

The Contractor will include the provisions of these paragraphs in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of the Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions including sanctions for noncompliance; provided however, that in the event the Contractor becomes involved in, or is threatened with litigation with a subcontractor or vendor as result of such direction by the contracting agency, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

### **Federal Prevailing Wage Requirements**

This construction project is funded with Federal and/or State funds. Federal Labor Standards Provisions (HUD 4010), including prevailing wage requirements of the Davis-Bacon and Related Acts (DBRA) will be enforced. State Labor Law requirements and California Labor Code Section 1770 et seq. will also be enforced. Whenever a discrepancy between Federal Regulations and State Law is found to exist, the more stringent of the two shall prevail. Federal Wage Decision CA-----Modification ----- Dated ----- and the current State Prevailing Wage rate available on-line at [<http://www.dir.ca.gov>] will be applicable to this project and **the higher of the two rates shall be paid to all employees working at the site(s).**

### **Consideration of GAIN Program or Section 3 Participants For Employment**

Should the contractor require additional or replacement personnel after the effective date of this Contract, Contractor shall give consideration for any such employment openings to participants in the County's Department of Public Social Services' Greater Avenues for Independence (GAIN) Program who meet contractor's minimum qualification for the open position. The Contractor shall contact the County's GAIN Division (626) 927-5334 for a list of GAIN participants by job category.

When the engineer's estimate exceeds \$100,000 in construction cost, Section 3 Requirements of the Housing and Urban Development Act of 1968 shall apply. These requirements are set in place to provide opportunities for training low- and moderate-income persons residing within the community where the project is located and contracts awarded to local businesses therein, to the greatest extent feasible (Section 3).

### **Federal Lobbyist Ordinance**

Federal Lobbyist Requirements: The Property Owner and Contractor are prohibited by the Department of Interior and Related Agencies Appropriations Act, known as the Byrd Amendments, and HUD's 24 CFR Part 87, from using federally appropriated funds for the purpose of influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, loan or cooperative agreement, and any extension, continuation, renewal, amendment or modification of said documents.

The Contractor must certify in writing on the Federal Lobbyist Requirements Certification form that it is familiar with the Federal Lobbyist Requirements and that all persons and /or subcontractors acting on behalf of the Contractor will comply with the Federal Lobbyist Requirements.

Failure on the part of the Contractor or persons/ subcontractors acting on behalf of the Contractor to fully comply with the Federal Lobbyist Requirements shall be subject to civil penalties.

## **10.5 Access and Retention of Records**

Access will be provided to the Commission, County of Los Angeles, the Federal or State grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers and records of the Property Owner and Contractor which are directly pertinent to the specific contract for the purpose of making audit, examination, excerpts and transcriptions. The Property Owner and Contractor are required to retain the aforementioned records for a period of five years after the Project is completed and accepted by Commission and Property Owner and other pending matters are closed.

The Property Owner shall provide access to the Commission, the County of Los Angeles, the Federal Grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers and records of the Property Owner which are directly pertinent to this Contract for the purpose of making audits, examinations, excerpts and transcriptions.

The Property Owner is required to retain the aforementioned records for a period of five (5) years after the Commission pays final payment and other pending matters are closed under this Contract.

**10.6 Five-year Use of Property**

When the Commission grant amount is \$25,000 or more, the Property Owner is to refund to the Commission a pro-rata share of the grant if the property no longer offers goods or services to the local community within a five-year period from the date of completion of the Work on the property.

**10.7 Conflict of Interest**

The Contractor represents, warrants and agrees that to the best of its knowledge, it does not presently have, nor will it acquire during the term of this Contract, any interest direct or indirect, by contract, employment or otherwise, or as a partner, joint venture or shareholder (other than as a shareholder holding a one percent (1%) or less interest in publicly traded companies) or affiliate with any business or business entity that has entered into any contract, subcontract or arrangement with the Commission. Upon execution of this Contract and during its term, as appropriate, the Contractor shall upon written request, disclose, in writing, to the Commission, any other contractual or employment during the term of this Contract by any other persons, business or corporation in which employment will or may likely develop a conflict of interest between the Commission's interest and the interests of the third parties.

**10.9 Indemnification**

Contractor shall indemnify, defend and hold harmless the Commission, the Housing Authority of the County of Los Angeles and the County of Los Angeles and their duly elected or appointed officers, employees, representatives, and agents from any and all, liabilities or expenses including but not limited to, suits, costs, awards, judgments, legal fees (including defense costs and attorney and expert witness fees), administrative proceedings, claims for damages, fines or penalties whatsoever claims for damages of any nature whatsoever including, but not limited to bodily injury, death, personal injury or property damage arising out of or connected with the Contractor's services rendered pursuant to this Contract, the Contractor's failure to comply with the prevailing wage requirements applicable to the Work, the Contractor's acts and/or omissions arising from and/or relating to this Contract; and Workers' Compensation suits.

The Property Owner indemnifies, defends, saves and holds harmless the Commission from all liability for any actions taken in connection with hazardous materials or substances or from any occurrence relating to relocation during abatement of hazardous materials or substances presently on the Property or discovered on the Property during the course of the Work.

The Property Owner indemnifies, defends, saves and holds harmless the Commission, the Housing Authority of the County of Los Angeles ("Housing Authority"), the County of Los Angeles ("County"), their agents, employees and officers from any and all claims, liabilities, damages and losses arising from Work performed by Contractor, including work performed by any and all subcontractors, material-men, laborers and any other person, firm or corporation furnishing or supplying work, services, materials, or supplies in connection with the Work under

this Agreement and arising from the condition of the Property existing on the date of commencement of the Work, and from any claims, liabilities, damages, and losses for workers' compensation arising from the performance of the work under this Agreement by the Contractor or any subcontractor. It is understood that the employees of the Contractor are not agents or employees of the Commission, Housing Authority or the County.

#### **10.9 Subcontracting**

The Contractor may subcontract only those specific portions of the work allowed in the original specifications covered by this Contract or permit subcontracted work to be further subcontracted with prior written approval by the Commission.

The Contractor shall not subcontract any portion of work covered by this Contract or permit subcontracted work to be further subcontracted without prior written approval by the Commission.

#### **10.10 Assignment by the Contractor**

The Contractor shall not assign its rights or delegate its duties under the Contract, or both, whether in whole or in part, without the prior written consent of the Commission, in its discretion, and any attempted assignment or delegation without such consent shall be null and void. For purposes of this paragraph, Commission consent shall require a written amendment to the Contract, which is formally approved and executed by the parties. Any payments by the Commission to any approved delegate or assignee on any claim under the Contract shall be deductible, at the Commission's sole discretion, against the claims, which the Contractor may have against the Commission. However, the Commission reserves the right to assign this Contract to another public agency without the consent of the Contractor.

Shareholders, partners, members, or other equity holders of the Contractor may transfer, sell, exchange, assign, or divest themselves of any interest they may have therein. However, in the event any such sale, transfer, exchange, assignment, or divestment is affected in such a way as to give majority control of the Contractor to any person(s), corporation, partnership, or legal entity other than the majority controlling interest therein at the time of execution of the Contract, such disposition is an assignment requiring the prior written consent of the Commission in accordance with applicable provisions of this Contract.

Any assumption, assignment, delegation, or takeover of any of the Contractor's duties, responsibilities, obligations, or performance of same by any entity other than the Contractor, whether through assignment, subcontract, delegation, merger, buyout, or any other mechanism, with or without consideration for any reason whatsoever without the Commission's express prior written approval, shall be a material breach of the Contract which may result in the termination of the Contract. In the event of such termination, the Commission shall be entitled to pursue the same remedies against the Contractor as it could pursue in the event of default by the Contractor.

#### **10.11 Confidentiality of Reports**

The Contractor shall keep confidential all reports, information and data received, prepared or assembled pursuant to performance hereunder. Such information shall not be made available to any person, firm, corporation or entity without the prior written consent of the Commission.

#### **10.12 Severability**

In the event that any provision herein contained is held to be invalid, void or illegal by any court of competent jurisdiction, the same shall be deemed severable from the remainder of the contract and shall in no way affect, impair or invalidate any other provision contained herein. If any such



provision shall be deemed invalid due to its scope or breadth, such provision shall be deemed valid to the extent of the scope or breadth permitted by law.

**10.13 Safety Standards and Accident Prevention**

The Property Owner and the Contractor shall comply with all applicable Federal, state and local laws governing safety, health and sanitation. The Contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions, on his own responsibility, reasonably necessary to protect the life and health of employees on the job and the public and to protect property in connection with the performance of this Contract.

**10.14 Drug Free Workplace Act of the State of California**

The Property Owner and the Contractor certifies under penalty of perjury under the laws of the State of California that the Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990.

**10.15 Use of Recycled-Content Paper Products**

Consistent with the Board of Supervisors' policy to reduce the amount of solid waste deposited at the County landfills, the Property Owner and the Contractor agrees to use recycled-content paper to the maximum extent possible on the Project.

**10.16 Copyright**

No report, maps, or other documents produced in whole or in part under this Contract shall be the subject of an application for copyright by or on behalf of the Contractor. All documents become the property of the Commission and the Commission holds all the rights to said data.

**10.17 Independent Contractor**

The Contractor shall perform the services as contained herein as an independent contractor and shall not be considered an employee of the Commission, the Property Owner or under Commission supervision or control. This Contract is by and between the Contractor, the Property Owner, and the Commission, and is not intended, and shall not be construed, to create the relationship of agent, servant, employee, partnership, joint venture, or association between the Commission and the Contractor.

**10.18 Waiver**

No breach of any provision hereof can be waived unless in writing. No consent or waiver, expressed or implied, by either party to or of any breach or default by the other of its obligations hereunder shall be deemed or construed to be a consent or waiver to or of any other breach or default of the same or any other provision in the performance of such other party hereunder. Failure on the part of either party to complain of any such act of the other party or to declare the other party in default, irrespective of how long such failure continues, shall not constitute a waiver by such party of its rights hereunder.

**10.19 Notices**

Notices provided for in this Contract shall be in writing and shall be addressed to the representative of each Party at the following address:

Property Owner

The Commission: Corde Carrillo, Director/Contracting Officer  
Economic/Redevelopment Division

Community Development Commission  
2 Coral Circle  
Monterey Park, CA 91755

**The Contractor:**

Notices shall be deemed delivered three (3) days after mailed by U.S. Mail or when delivered in person with written acknowledgement of the receipt thereof. Commission and Contractor may designate a different address or addresses for notices to be sent by giving written notice of such change of address to all other parties entitled to receive notice.

**10.19 Notice of Injury or Damage**

Commission shall provide Contractor with notice of any injury or damage arising from or connected with services rendered pursuant to this Contract to the extent that Commission has actual knowledge of such injury or damage. Commission shall provide such notice within ten (10) days of receiving actual knowledge of such injury or damage.

**10.20 Interpretation**

No provision of this Contract is to be interpreted for or against any party because that party or that party's legal representative drafted such provision, but this Contract is to be construed as if it were drafted by parties hereto.

**10.21 Contractor Responsibility and Debarment**

- A. A responsible contractor is a contractor who has demonstrated the attribute of trustworthiness, as well as quality, fitness, capacity and experience to satisfactorily perform the contract. It is the policy of the Commission to conduct business only with responsible contractors.
- B. The Contractor is hereby notified that if the Commission acquires information concerning the performance of the Contractor on this or other contracts which indicates that the Contractor is not responsible, the Commission may, in addition to other remedies provided in the contract, debar the Contractor from bidding on Commission contracts for a specified period of time not to exceed three (3) years, and terminate any or all existing contracts the Contractor may have with the Commission.
- C. The Commission may debar a contractor if the Board of Commissioners finds, in its discretion, that the Contractor has done any of the following: (i) violated any term of a contract with the Commission, (ii) committed any act or omission which negatively reflects on the Contractor's quality, fitness or capacity to perform a contract with the Commission or any other public entity, or engaged in a pattern or practice which negatively reflects on same, (iii) committed an act or offense which indicates a lack of business integrity or business honesty, or (iv) made or submitted a false claim against the Commission or any other public entity.
- D. If there is evidence that the Contractor may be subject to debarment, the Commission will notify the Contractor in writing of the evidence which is the basis for the proposed debarment and will advise the Contractor of the scheduled date for a debarment hearing before the Contractor Hearing Board.

- E. The Contractor Hearing Board will conduct a hearing where evidence on the proposed debarment is presented. The Contractor and/or the Contractor's representative shall be given an opportunity to submit evidence at that hearing.
- F. After consideration of any objections, or if no objections are submitted, a record of the hearing, the proposed decision and any other recommendation of the Contract Hearing Board shall be presented to the Board of Commissioners. The Board of Commissioners shall have the right to modify, deny or adopt the proposed decision and recommendation of the Hearing Board.
- G. If a Contractor has been debarred for a period longer than five years, that Contractor may, after the debarment has been in effect for at least five years, submit a written request for review of the debarment determination to reduce the period of debarment or terminate the debarment. The Commission may, in its discretion, reduce the period of debarment or terminate the debarment if it finds that the Contractor has adequately demonstrated one or more of the following: (1) elimination of the grounds for which the debarment was imposed; (2) a bona fide change in ownership or management; (3) material evidence discovered after debarment was imposed; or (4) any other reason that is in the best interests of the Commission.
- H. The Contractor Hearing Board will consider a request for review of the debarment determination only where (1) the Contractor has been debarred for a period longer than five years; (2) the debarment has been in effect for at least five years; and (3) the request is in writing, states one or more of the ground for reduction of the debarment period or termination of the debarment, and includes supporting documentation. Upon receiving an appropriate request, the Contractor Hearing Board will provide notice of the hearing on the request. At the hearing, the Contractor Hearing Board shall conduct a hearing where evidence on the proposed reduction of debarment period or termination of debarment is presented. This hearing shall be conducted and the request for review decided by the Contractor Hearing Board pursuant to the same procedures as for a debarment Hearing.

The Contractor Hearing Board's proposed decision shall contain a recommendation on the request to reduce the period of debarment or terminate the debarment. The Contractor Hearing Board shall present its proposed decision and recommendation to the Board of Commissioners. The Board of Commissioners shall have the right to modify, deny or adopt the proposed decision and recommendation of the Contractor Hearing Board.
- I. These terms shall also apply to subcontractors and subconsultants of County, Commission, or Housing Authority contractors, consultants, vendors and operating agencies.

## **10.22 Compliance with Jury Service Program**

- 1. Unless Contractor has demonstrated to the County's satisfaction either that Contractor is not a "Contractor" as defined under the Jury Service Program or that Contractor qualifies for an exception to the Jury Service Program, Contractor shall have and adhere to a written policy that provides that its Employees shall receive from the Contractor, on an annual basis, no less than five days of regular pay for actual jury service. The policy may provide that Employees deposit any fees received for such jury service with the Contractor or that the Contractor deduct from the Employee's regular pay the fees received for jury service.

2. For purposes of this Section, "Contractor" means a person, partnership, corporation or other entity which has a contract with the Commission or a subcontract with an Commission contractor and has received or will receive an aggregate sum of \$50,000 or more in any 12-month period under one or more Commission contracts or subcontracts. "Employee" means any California resident who is a full time employee of Contractor. "Full time" means forty (40) hours or more worked per week, or a lesser number of hours if: 1) the lesser number is a recognized industry standard as determined by the Commission, or 2) Contractor has a long-standing practice that defines the lesser number of hours as full-time. Full-time employees providing short-term, temporary services of ninety (90) days or less within a 12-month period are not considered full-time for purposes of the Jury Service Program. If Contractor uses any subcontractor to perform services for the Commission under the Contract, the subcontractor shall also be subject to the provisions of this Section. The provisions of this Section shall be inserted into any such subcontract agreement and a copy of the Jury Service Program shall be attached to the agreement.
3. If Contractor is not required to comply with the Jury Service Program when the Contract commences, Contractor shall have a continuing obligation to review the applicability of its "exception status" from the Jury Service Program, and Contractor shall immediately notify the Commission if Contractor at any time either comes within the Jury Service Program's definition of "Contractor" or if Contractor no longer qualifies for an exception to the Program. In either event, Contractor shall immediately implement a written policy consistent with the Jury Service Program. The Commission may also require, at any time during the Contract and at its sole discretion, that Contractor demonstrate to the Commission's satisfaction that Contractor either continues to remain outside of the Jury Service Program's definition of "Contractor" and/or that Contractor continues to qualify for an exception to the Program.
4. Contractor's violation of this Section of the Contract may constitute a material breach of the Contract. In the event of such material breach, the Commission may, in its sole discretion, terminate the Contract and/or bar Contractor from the award of future Commission contracts for a period of time consistent with the seriousness of the breach.

#### **10.23 Notice to Employees regarding the Safely Surrendered Baby Law**

The Contractor shall notify and provide to its employees, and shall require each subcontractor to notify and provide to its employees, a fact sheet regarding the Safely Surrendered Baby Law, its implementation in Los Angeles County, and where and how to safely surrender a baby. The fact sheet is attached and available on the Internet at [www.babysafela.org](http://www.babysafela.org) for printing purposes.

#### **10.24 Contractor's Acknowledgement of County's Commitment to the Safely Surrendered Baby Law**

The Contractor acknowledges that the Commission places a high priority on the implementation of the Safely Surrendered Baby Law. The Contractor understands that it is the Commission's policy to encourage all Commission contractors to voluntarily post the "Safely Surrendered Baby Law" poster in a prominent position at the Contractor's place of business. The Contractor will also encourage its Subcontractors, if any, to post this poster in a prominent position in the Subcontractor's place of business. The County's Department of Children and Family Services will supply the Contractor with the poster to be used.

## 10.25 Contractors Charitable Contributions Compliance

The Supervision of Trustees and Fundraisers for Charitable Purposes Act regulates entities receiving or raising charitable contributions. The “Nonprofit Integrity Act of 2004” (SB 1262, Chapter 919) increased Charitable Purposes Act requirements. By requiring Contractors to complete the Charitable Contributions Certification as included in *Attachment C – Required Contract Forms*, the Commission seeks to ensure that all Commission contractors that receive or raise charitable contributions comply with California law in order to protect the Commission and its taxpayers. A Contractor that receives or raises charitable contributions without complying with its obligations under California law commits a material breach subjecting it to either contract termination or debarment proceedings, or both.

## 10.26 Entire Contract

This Contract with attachments constitutes the entire understanding and agreement between the parties. No variations, modifications, or changes hereto shall be binding upon any party hereto unless set forth in a document duly executed by or on behalf of such party. All prior negotiations, representations and/or contracts between the parties relative to the subject matters hereof shall be superseded hereby and have no further force and effect.

[illegible]

IN WITNESS WHEREOF, the parties hereto have executed this Construction Contract through their duly authorized officers this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

COMMUNITY DEVELOPMENT COMMISSION  
OF THE COUNTY OF LOS ANGELES

CONTRACTOR:

By: \_\_\_\_\_  
CARLOS JACKSON, EXECUTIVE DIRECTOR

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
License # \_\_\_\_\_ -

APPROVED AS TO FORM:  
RAYMOND G. FORTNER, JR.  
COUNTY COUNSEL

PROPERTY OWNER:

By: \_\_\_\_\_ Deputy  
By: \_\_\_\_\_ Property Owner

APPROVED AS TO PROGRAM:

By: \_\_\_\_\_  
CORDE CARRILLO, DIRECTOR/CONTRACTING OFFICER  
ECONOMIC/REDEVELOPMENT DIVISION